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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, **Plaintiff,** **vs.** **CARLOS FRANCISCO VIZCARRA-SANTIAGO,** **Defendant.**	**Case No. 07 CR 03009 - 01 BEN** **MOTION FOR LEAVE TO FILE LATE DOWNARD DEPARTURE MOTION BASED ON OVER-REPRESENTATION OF CRIMINAL HISTORY AND SENTENCE MEMORANDUM**

HERE COMES DEFENDANT CARLOS FRANCISCO VIZCARRA-SANTIAGO, by and through his attorney of record and moves the above entitled court order he be allowed to file his Downward Departure Motion based on Over-representation of Criminal History and Sentence Memorandum late.

DECLARATION IN SUPPORT OF MOTION

My name is Charles N. Guthrie, and I am Mr. Carlos Francisco Vizcarra-Santiago's attorney of record. I have been engaged in and preparing for several trials within the last month. In addition, I have suffered from a chest cough and illness for several weeks. In order to effectively represent Mr. Vizcarra-Santiago it is necessary to file the above motion for departure downward as to his Criminal History Category as well as his Sentence Memorandum.

I believe there will be no prejudice to the prosecution by a late filing of these documents.

I certify and declare the above true under penalty of perjury executed this March 31, 2008, in the City of San Diego, State of California.

S/ Charles N. Guthrie

ARGUMENT

There is little or no prejudice to the prosecution by late filing of defendant's motion for downward departure and Sentence Memorandum. There was a reasonable reason for the late filing and it is necessary for Mr. Vizcarra-Santiago to be represented by way of these motions.

Respectfully submitted,

March 31, 2008

s/Charles N. Guthrie

Charles N. Guthrie, Atty at Law